

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

IN RE:)	
)	
PHILIP JAY FETNER,)	Case No. 17-13036-KHK
)	Chapter 11
)	
Debtor-In-Possession.)	
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BANK OF AMERICA, N.A.)	
)	
Movant,)	
)	
v.)	
)	
PHILIP JAY FETNER,)	
)	
Respondent.)	

RESPONSE TO BANK OF AMERICA, N.A.'S
MOTION SEEKING RELIEF FROM STAY

Philip Jay Fetner ("Fetner"), Debtor-in-Possession, by counsel, files the following Response to Bank of America, N.A.'s ("BOA") Motion Seeking Relief From Stay.

1. The allegations of Paragraph 1 do not require a response. If a response is required the Statute and Bankruptcy Rules cited speak for themselves.

2. The allegations of Paragraph 2 are responded to as follows:

- (a) BOA is not a secured creditor of Fetner;
- (b) Fetner is not the owner of the property in Fauquier County, Virginia which has an address of 7476 Stoney Hill Lane, The Plains, Virginia 20118;
- (c) the owner of the property is PJF Limited Partnership;
- (d) PJF Limited Partnership is the maker of a Deed of Trust Note in the amount of \$2.3 million dollars dated December 1, 2006, Fetner does not believe that this Deed of Trust

Note dated December 1, 2006 is true and accurate;

(e) the Loan Modification Agreement is neither admitted nor denied and strict proof is demanded thereof. This document was not recorded in the Land Records of Fauquier County;

(f) Fetner denies that the total amount due under the Loan Modification Agreement of \$1,700,000.00 with interest of \$135,302.58 plus late charges and attorney's fees and costs totally \$1,937,246.84 is true and accurate and strict proof is demanded thereof;

(g) Fetner denies that BOA's Payoff Letter dated October 31, 2017 marked Exhibit A is correct and strict proof is demanded thereof;

(h) Fetner neither admits nor denies that Exhibit C a legal description of the property is true and accurate and strict proof is demanded thereof; and

(i) Fetner neither admits nor denies that Exhibit D, BOA's Deed of Trust is true and accurate and strict proof is demanded thereof;

3. The allegations of Paragraph 3 are admitted that Fetner filed his Chapter 11 Petition on September 7, 2017 in the U.S. Bankruptcy Court for the Eastern District of Virginia, Alexandria Division, Case No. 17-13036-KHK. This Petition was not filed in the name of Philip Jay Fetner, dba PJF Limited Partnership, or dba Coachmen Farms, L.L.C.

4. It is admitted that the Note is in default but believes that Reinstatement Figures document marked Exhibit D are incorrect and strict proof is demanded thereof.

5. Fetner admits that post-petition payments were not made on the Note in October and November 2017. There were no other post-petition payments due BOA. Fetner denies that BOA is owed attorney's fees of \$850.00 and costs of \$181.00.

5. The allegations of Paragraph 5 that BOA lacked adequate protection for its security interest because he is not the owner of 7476 Stoney Hill Lane, The Plains, Virginia 20118 is denied and strict proof is demanded thereof. BOA has adequate protection because the fair market value of the property is in excess of \$4 million dollars and there is significant equity after deducting the alleged balance due of \$1,937,246.84.

6. The allegations of Paragraph 6 are denied and strict proof is demanded thereof.

7. The allegations of Paragraph 7 are not relevant to the issue of whether this Court should terminate the stay and therefore they are denied and strict proof is demanded thereof. The unnumbered paragraph on page 4 also contains allegations which are not relevant to whether relief from the stay should be granted and therefore they are denied and strict proof is demanded thereof.

8. It would be improper for the Court to grant relief from the stay to the Movant, Bank of America, N.A. because the Debtor-in-Possession, Philip Jay Fetner, is not the owner of the property located at 7476 Stoney Hill Lane, The Plains, Virginia 20198.

WHEREFORE, the Debtor-in-Possession, Philip Jay Fetner, by counsel, respectfully requests this Court deny Bank of America, N.A.'s Motion Seeking Relief from Stay.

PHILIP JAY FETNER
By Counsel

LAW OFFICE OF JOHN T. DONELAN

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CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of November, 2017 a true copy of the foregoing Response to Motion for Relief of the Automatic Stay was served electronically through the CM/ECF system on all persons entering their appearance and requesting notice in this case, and by email upon the following persons:

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